

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

SWD – Appeal Petition from Sri T. Sanjeeva Murthy, S/o. Anjaneyulu, working as manager, Syndicate Bank, Main Branch, Kadapa Dist. – Under Sec. 7(2) of Act 16/93 – Against the proceedings of the District Collector, Kurnool Dist., dated: 07.04.1992 – Appeal rejected – Orders – Issued

SOCIAL WELFARE (C.V-1) DEPARTMENT

G.O.Ms.No. 65

Dated: 15-06-09.
Read the following.

1. From the District Collector, Kurnool Dist. Procs. No. R. Dis. (D1/2)2851/89, dated. 07.04.1992.
2. From the APHC, Hyderabad orders dated: 01-03-2005 in W.P.No. 14750 of 1993.
3. Appeal Petition from Sri. T. Sanjeeva Murthy, S/o. Anjaneyulu, working as manager, Syndicate Bank, Main Branch, Kadapa Dist, Dated: 24.2.2006, through his Advocate.
4. From the District Collector, Kurnool Rc. C6/6478/1993, Dated: 30-05-2007
5. Govt. Memo. No. 1578/CV.1/2006-3, dated. 20-01-2009.

ORDER:

The Asst. General Manager, Vigilance Cell Syndicate Bank has reported that T.Sanjeeva Murthy did not belong to Valmiki Community but he belongs to Boya Community which is classified as socially and economically Backward Class Community, he has also requested the Collector Kurnool to initiate the Proceedings for the cancellation of Original Caste Certificate in Question.

2. The Revenue Divisional Officer, Kurnool, who conducted enquiry into the matter has reported that the caste certificate obtained by Sri.T.Sanjeeva Murthy is false one as the individual belongs to “Boya” caste which comes under Back ward Class. The caste certificate issued by Sri. S.A.N.Sashtri the then Tahsildar, Kurnool to Sri. T. Sanjeeva Murthy S/o Anjaneyulu of Kurnool on 16-9-77 as Valmiki Schedule Caste Community was cancelled in view of the enactments of 108 of 1976 from 27-7-77.

3. The appellant has filed appeal petition as per High Court directions in W.P.No.14750 of 1993, dated:1-3-2005, along with Stay petition filed against the Proceedings of the District Collector, Kurnool District, dated: 07-4-1992, in which the Collector, Kurnool District has cancelled the “Valmiki” SC caste certificate, and also he has submitted grounds in support of his SC social status claim. Further the appellant, based on the grounds he has requested the Hon’ble appellate authority, may be pleased to stay the Proceedings of the Collector, Kadapa District, dated: 7-4-1992, and pass such other order or orders as the Hon’ble Minister feels deem fit pending disposal of the appeal on the following grounds:

- a. The order of the 1st Respondent is totally arbitrary and improper in as much as proper enquiry is not conducted before concluding that the appellant does not belong to Valmiki caste. The 1st respondent carried away by the mere fact that Valimikis are also called as Boyas and that therefore the appellant does not belong to Scheduled Castes as Boyas have to be considered as belonging to Backwards Castes. The First respondent failed to consider the relevant G.Os issued by the Government from time to time and more particularly G.O.Ms.No.527, dated: 09-3-1951 which categorically places the community of Valmikis in the list of Scheduled Castes.

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- b. The first respondent ought to have considered the explanation submitted by the appellant and ought to have considered the various points urged in the explanation. The first respondent failed to give any reasons on such pleadings. The first respondent gave perverse reasons for the cancellation of the caste certificate.
- c. The first respondent erred in basing the order on the calling of the father of the appellant as belonging to Boya caste in his service records. The mere calling should not result in treating him as Backwards Castes instead of verifying as to whether from the beginning he is treated as a person belonging to Scheduled Castes or not. Similarly the brought up of the appellant as person belonging to Scheduled Castes has to be considered for finding out as to whether he belongs to Scheduled Castes or not. The festivals celebrated by the appellant and his family members and the treatment that is provided by the society to them and the life that they have led in the earlier days of his life are the factors to be considered for identification of the caste. Instead of applying all these principles, the 1st respondent erroneously held that the appellant does not belong to the Scheduled Castes and that Valmikis cannot be treated as persons belonging to the Scheduled Castes.
- d. The proceedings of the District Collector, Kurnool and the consequential charge sheet ignore that Valmikis and Boyas are synonymous within the District of Kurnool and even according to their final order of the 3rd respondent. When read in light of the G.O.Ms.No.2490, dated: 10-9-1964 there is no mis – statement of fact.
- e. The charge sheet issued by the 2nd respondent is opposed to principles of natural justice as proceedings have been initiated and enquiry has been conducted on an earlier occasion in respect of the very same allegations which is pending finalization before the appropriate authority.
- f. The respondents are stopped from now contending that he does not belong to Valmiki community have accepted the said statement through over a period of 20 year and the caste certificate which is issued to him cannot now be arbitrarily cancelled as they have acquired themselves to the statement that Valmikis and Boyas are synonymous for a very long period.
- g. The respondent cannot now be permitted to cancel the caste certificates which was issued more than 15 years back and deprive him of his right to livelihood, which is a fundamental right guaranteed to him under article 21 of the Constitution of India, after accepting the said statement for a period of 15 years and after I have become ineligible to secure alternative means of livelihood.
- h. The SC order which was as amended subsequent to his acquiesce of SC status by virtue of his birth cannot be retrospectively operate to take away the status of SC which was conferred on him.
- i. The second enquiry on the basis of some allegations while the 1st enquiry report in favour of the employee exists is bad in Law.
- j. The respondent ought to have seen that the appellant has completed nearly 33 years of service in the Syndicate Bank so far. Now he is left out with only 4 years of service for attaining the age of superannuation.

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- k. The respondent Nos.2 and 3 have stopped many financial and promotional benefits to the appellant till now on the ground that the pending of the charges even though the interim suspension granted by the High Court was subsisting all through. Having caused irreparable loss and injury to the appellant, the action now proposed by the 3rd respondent is totally arbitrary, irregular, unreasonable, unfair and unjustified. The 3rd respondent having exploited the services of the P.T.O., appellant for all these 33 years cannot subject him to the mental agony, damage to reputation and threat of termination. By principle estoppel the respondents No.2 and 3 cannot be permitted to take disciplinary action against the appellant at this juncture of time. P.T.O.,
 - l. The appellant submits that the question whether he belongs to Scheduled Castes or not is not relevant in so far as his recruitment in the Syndicate Bank is concerned, as he was selected purely on the merit basis but not by providing the reservation. Therefore when there was no benefit conferred on the appellant as person belonging to Scheduled Castes, now the proposal to terminate the services is totally arbitrary, unwarranted and unjustified.
 - m. The appellant submits that the cancellation of caste certificate dated: 16-9-1977 is totally irrelevant as much as the recruitment of the appellant as Probationary Clerk was in the year 1973 and as an officer was in the year 1976. Therefore keeping this in mind, the impugned order of the first respondent is liable to be quashed.
4. The Government has stayed the proceedings of the District Collector, Kurnool and obtained parwise remarks and original connected records.
 5. The District Collector, Kurnool Dist., in his letter read above has submitted parwise remarks on the grounds filed by Sri. T. Sanjeeva Murthy, S/o. Anjaneyulu which as follows:
 - a) The Collector, Kurnool reported that in the school records the Caste of individual will be noted on the basis of the declaration of the parents / guardian but not on proper enquiry and hence cannot be relied upon. In his appeal, the petitioner has claimed his caste status mainly basing on G.O.Ms.No. 527 dated: 9-3-1951, G.O.Ms.No. 2490 Edn., dated: 10-09-1964 and G.O.Ms.No. 230 dated 29-05-1974 contended that Valmiki is to be treated as S.T in entire state of Andhra Pradesh. The contention of the Appellant is basically invalid, since in the presidential orders itself it is clearly mentioned that Valmiki caste has to be treated as Scheduled Tribe in the Agency track areas only and Kurnool District will not come under Agency Track.
 - b) He has also reported that the proceedings issued on 07-04-1992, canceling the certificate is correct, legal and as per rules. The Revenue Divisional Officer, Kurnool in his report dated: 10-12-1991 stated that Kurnool District has not been declared as Agency Tract in Andhra Pradesh at any time and the Certificate obtained by Sri. T. Sanjeeva Murthy is false one and that he belongs to 'BOYA' Caste which comes under B.C (A) Group.
 - c) It is reported that a show cause Notice was issued to the appellant to offer his explanation and to produce evidences in support of his claim. During the Course of personal hearing, he reiterated that his caste is only "Valmiki" and he obtained caste certificate accordingly.
 - d) The father of Sri. T. Sanjeeva Murthy, Sri. B. Anjaneyulu has retired on 30-06-1976 as Deputy Tahsildar in Kurnool District establishment belongs to Boya Caste as per the entries recorded in his service book. As such, Sri. Sanjeeva Murthy who is the son of Sri. T. Anjaneyulu has no right to claim "Valmiki" Caste other than the caste of his father. In the aforesaid reasons, the caste certificate issued by Sri. S.A.N. Sastry, the then Tahsildar, Kurnool to the appellant on 16-09-1977 as Valmiki Scheduled Caste community, is cancelled in accordance with enactment of Act 108 of 1976.

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e) Also reported that the appellant him self has stated in the appeal petition that in Kurnool District people belonging to Valmiki Community are called by two name viz, "Valmiki" and "Boyas" and both these two names was recognized by the State Government of Andhra Pradesh as being prevalent in 9 Districts, which include Kurnool and Kadapa in G.O.Ms. No. 2490, Education, dated: 10-1964. It is incorrect to say that the community Valmiki was included in the list of Scheduled Caste. In the schedule to the Constitution (Scheduled Castes) Order 1950 Part-I, Andhra Pradesh, 59 castes are included in 'Schedule Caste category wherein 'Valmiki' caste does not find place. But where as the said caste is included in the list of Scheduled Tribes Amendments. In the Constitution (Scheduled Tribes) Order, 1950 at serial No. 31 in the Agency Tracks of Andhra Pradesh.

f) Consequent on State-Reorganization on linguistic basis, the list of Schedule Tribes was amended under the S.Cs and S.Ts list (Modification) Order 1956 for the Andhra Pradesh State Under the said Order, these tribes namely Goudu, Nayak and Valmiki in agency tracks of State were notified as Scheduled Tribes. This order came into force with from 01-11-1956. The list of Scheduled Tribes was again revised under the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act 1976. The list of S.Ts "Valmiki" Caste finds place in the Agency tracks only and not in Kurnool District, Which is not Agency Tract.

g) In the above facts and circumstances, the District Collector, Kurnool vide his Proceedings.No.R.Dis. (D12)2851/89, dated. 07.04.1992 canceled the Valmiki caste certificate.

6. The case has been taken up for personal hearing on 12-02-09 and the appellant attended before the Appellant Authority for hearing and produced the following documents during hearing:

- i) Valmiki Caste is included in the Scheduled Caste list at Sl. No. 76 of Andhra Pradesh prior to 1977.
- ii) He obtained S.C. Valmiki Caste Certificate on 19-05-1967.
- iii) He was appointed as clerk on 25-08-1973 and promoted under SC quota on 18-01-1977 which are prior to 27.07.1977.

7. In the above circumstances and in exercise of the powers conferred under Section 7(2) of A.P. (SC, ST and B.C. Regulation of issue of Community Certificates) Act 16 of 1993, and rules made under as per G.O.Ms. No. 58, SW (J) Department, dated: 12-05-1997, the Government after careful examination of the appeal petition filed by Sri. T. Sanjeeva Murthy S/o. Anjaneyulu, Kurnool District is hereby rejected, duly upholding the Proceedings of the Collector and District Magistrate, Kurnool District in Proceedings R.Dis (D12)/2851/89, dated: 07-04-1992.

8. The records received from the District Collector, Kurnool District, through 4th read above, are returned herewith in original (containing 1-17 N.F&1-102 C.F.) to him and he is requested to acknowledged receipt of the sane, immediately

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V. NAGI REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate,
Kurnool District
Sri. T. Sanjeeva Murthy, Manager,
S/o.Anjaneyulu,
Syndicate Bank,
Main Branch, Kadapa Dist.

P.T.O,

M/s. P. Veera Reddy, Advocate,
O/o. 10-1-18/16, Shyam Nagar,
Near Masab Tank,
Hyderabad.

The General Manager,
Syndicate Bank,
Pioneer House, 6-3-653,
Somajiguda,
Hyderabad. 500082.

Copy to:
The P.S. to m (SW)
The P.S. to Principal Secretary
SFSC
(Copy of this order is available on internet and
can be accessed at <http://goir.ap.gov.in/>)

//FORWARDED: BY ORDER//

SECSTION OFFICER